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August 14, 1997

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: MCI Telecommunications Corporation Petition for Rulemaking -- Billing and Collection Services Provided By Local Exchange Carriers for Non-Subscribed Interexchange Services, RM 9108

Dear Mr. Caton:

Pursuant to the Commission's June 25, 1997 Public Notice in the above-referenced matter, enclosed for filing are an original and four (4) copies of the Joint Reply Comments of OAN Services, Inc., and Integretel, Incorporated.

Please date-stamp the enclosed extra copy of the Joint Reply Comments and return it to the undersigned via our messenger. If you should have any questions concerning this matter, please do not hesitate to contact us.

Very truly yours,

Michael R. Romano

C. Joël Van Over
Michael R. Romano

Counsel for OAN Services, Inc.,
and Integretel, Incorporated

Enclosures

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ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
MCI Telecommunications Corporation	)	RM 9108
	)	
Billing and Collection Services Provided	)	
By Local Exchange Carriers for Non-Subscribed	)	
Interexchange Services	)	
	)	

JOINT REPLY COMMENTS OF
OAN SERVICES, INC. AND INTEGRETEL, INCORPORATED

OAN Services, Inc. ("OAN") and Integretel, Incorporated ("Integretel") (collectively, the "Joint Commenters"), by undersigned counsel, hereby submit their Joint Reply Comments in support of the Petition for Rulemaking ("Petition") filed by MCI Telecommunications Corporation ("MCI") on May 19, 1997 in the above-referenced proceeding.

I. A LACK OF COMPETITIVE DEVELOPMENT IN BILLING AND COLLECTION SERVICES AND CHANGED CIRCUMSTANCES IN THE TELECOMMUNICATIONS MARKETPLACE SHOULD PROMPT THE COMMISSION TO NOW REGULATE THE PROVISION OF THESE SERVICES.

As many of the local exchange carriers ("LECs") accurately note in their Comments, the Commission deregulated billing and collection services provided by LECs in 1986.[1] The Commission's finding in 1986, however, should not tie its hands in responding to obvious market deficiencies eleven years later. While the Commission found that it could not exercise Title II jurisdiction over billing and collection services in the *Detariffing Order*, the Commission also ruled that it could exercise ancillary jurisdiction over billing and collection under Title I of the

[1] Comments of Ameritech, at 3; Bell Atlantic/NYNEX, at 3; BellSouth, at 4. *See Detariffing of Billing and Collection Services*, CC Docket No. 85-88, Report and Order, 102 FCC 2d 1150 (1986) ("*Detariffing Order*").

Communications Act of 1934.[2] The Commission simply declined to exercise its Title I jurisdiction at that time, on the belief that "there is sufficient competition to allow market forces to respond to excessive rate or unreasonable billing and collection practices on the part of exchange carriers."[3]

The competition that the Commission had hoped would thrive as a result of its *Detariffing Order* has not come to pass. Instead, as the evidence in the record clearly indicates, incumbent LECs continue to exercise virtually unfettered control over many billing and collection functions.[4] In terms of non-subscribed services, LECs hold the necessary customer billing name and address ("BNA") information and other data that is essential to successfully bill and collect for non-subscribed interexchange services. Even in the case of presubscribed calls, LECs have the leverage that comes with their exclusive ability to provide a much-desired single bill for local and long-distance services. Interexchange carriers ("IXCs"), and the clearinghouses that serve them, therefore depend upon the LEC to provide billing and collection information and functions on a fair and nondiscriminatory basis.

Changed conditions in the telecommunications marketplace now provide the LECs with new incentives to abuse this control over billing and collection functions. As the LECs prepare to enter

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2 *Detariffing Order*, at ¶¶ 34-35.

3 *Detariffing Order*, at ¶ 37.

4 Several LECs assert that if MCI has encountered a problem with individual LECs, it should file a complaint and ask the Commission to initiate a tariff investigation against those LECs. Comments of Bell Atlantic/NYNEX, at 2; U S West, at 2. As indicated in MCI's Petition and in a number of Comments filed in this proceeding, however, the problem is pervasive throughout the industry and merits a comprehensive Commission investigation into the rates, terms, and conditions associated with the provision of billing and collection services. *See, e.g,* Petition, at 6, 14; Comments of OAN and Integretel, at 6-7; AT&T, at 3; Frontier, at 2; WorldCom, at 4; Hold Billing Services, at 5-6.

the interexchange market through their own operations or those of interLATA affiliates, they are able to use their virtually unfettered control over billing and collection functions to harm potential IXC competitors and support their own entry into the market. Specifically, LECs have recently adopted strong-arm, "take it or leave it" negotiating tactics that impose onerous fees and conditions on IXC and clearinghouse access to vital billing and collection information and functions.[5] Clearinghouses such as OAN and Integretel have no choice but to accept these burdensome terms imposed by the incumbent LECs, because without the ability to provide billing and collection services in every major LEC's region, they will be unable to attract and retain IXC customers. As the price of access to billing and collection information and functions is driven up and the terms of access become more onerous, the price and quality of service received by the IXC customer ultimately suffer as a result of the LEC's anticompetitive behavior.

Thus, the contention by several LECs that the Commission permanently deregulated billing and collection services eleven years ago is quite simply wrong. Although the LECs would have the Commission believe otherwise, the *Detariffing Order* was not made in a vacuum under the assumption of a static billing and collection marketplace and a static telecommunications marketplace. Instead, the Commission has the ability to adapt to competitive (or anticompetitive) pressures in both markets and respond by revising its rules accordingly. The crux of the Commission's 1986 *Detariffing Order* was that the Commission determined it was not necessary to exercise its ancillary Title I jurisdiction at that time. Nothing in that order prevents the Commission from now undertaking an investigation of the billing and collection marketplace and

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[5] Petition, at 2; Comments of Competitive Telecommunications Association, at 5; Sprint, at 3-4; Frontier, at 3; OAN and Integretel, at 6; Pilgrim Telephone, Inc., at 5.

exercising its Title I authority in response to the obvious market deficiencies that have become strikingly clear since 1986.

II. CLEARINGHOUSES AND IXCS CANNOT AFFORD TO DEVELOP THEIR OWN BILLING AND COLLECTION SYSTEMS, AND CUSTOMERS DO NOT WANT THEM TO PROVIDE A SEPARATE BILL.

While several LEC commenters argue that MCI and other IXCs could develop their own billing and collection systems,[6] this argument ignores the economic status of most IXCs and the clear preferences of customers for a single bill. Such arguments have been made by LECs ever since a few IXCs began to engage in direct billing for casual calls several years ago. However, those IXCs that have in fact attempted to develop full billing and collection systems on their own have generally failed. The fact remains that the costs of rendering separate long distance bills are too great for all but the largest of the IXCs.

Indeed, one of the very reasons that clearinghouses such as OAN and Integretel exist is because these IXCs cannot afford to negotiate, administer, and enforce billing and collection contracts with each LEC to whose territory they provide service. If IXCs cannot afford to directly enter into contracts with individual LECs, how can they be expected to afford the significant capital investment associated with the development of a billing and collection system, as well as the recurring costs of bill production and collection activities? Furthermore, for those carriers considering whether to enter the interexchange market, the costs of entry would skyrocket as a result of this necessary billing and collection development. The LEC argument that IXCs should develop their own billing and collection capability and render their own bills therefore ignores the

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[6] Comments of Ameritech, at 3-4; Cincinnati Bell Telephone, at 4; U S West, at 7-10.

fundamental economic structure of much of the interexchange market and the enormous costs associated with such an endeavor.

Those who claim that IXCs should develop separate billing systems also ignore the obvious customer preferences for a single bill containing both local and long distance accounts. As the Joint Commenters highlighted in their initial Comments, AT&T released several study results at the Commission's public forum on LEC billing that indicate carriers who ignore the clear customer demands for consolidated billing do so at their own peril.[7] Even if IXCs and clearinghouses were to ignore the prohibitive costs and undertake their own direct billing efforts, the ability of the LEC and its interLATA affiliate (or internal interLATA operations) to provide a single local and long distance bill to the LEC's entrenched customer base would prove to be a competitive advantage that would be difficult, if not impossible, for competitor IXCs to overcome. Clearly in such circumstances it can never be cost-effective for an IXC to render a separate bill, even for presubscribed services.

III. CONCLUSION

Despite the arguments of LEC commenters to the contrary, the time has come for the Commission to revisit its 1986 decision to deregulate the billing and collection services market. The competition that all parties had hoped would develop in billing and collection services following that decision has not arrived. Instead, LECs continue to occupy a central position and exercise virtually unfettered control over billing and collection functions through their exclusive possession

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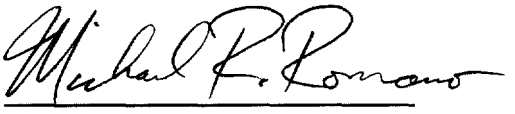
[7] Transcript, Federal Communications Commission Public Forum on Local Exchange Carrier Billing for Other Businesses, at 15, lines 8-17 (noting that 56% of customers who left AT&T for SNET in Connecticut did so because they wanted a single bill, and also that 80% of consumers generally prefer a single bill for telecommunications services).

of essential billing and collection information and through their exclusive ability to provide a single bill for local and long distance services to customers.

Along with this ability to discriminate, the LECs have recently developed the incentive to discriminate. Specifically, they can now utilize their control over much-needed billing and collection information to leverage their entry into the long distance market by discriminating against IXCs competitors and the clearinghouses that serve them. The Commission should therefore re-examine the competitive dynamic of the billing and collection services market, and ultimately adopt policies that will ensure fair and reasonable access to billing and collection functions. As suggested in the Joint Commenters' initial Comments, the Commission should take the preliminary step of issuing a rule that will prohibit discrimination by LECs in providing access to billing functions for both nonsubscribed and presubscribed services. In addition, the Commission should consider the establishment of an independent informational database, through collaborative state, federal and industry workshops, that will eliminate the LECs' bottleneck control over essential billing and collection information.

Respectfully submitted,



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Dated: August 14, 1997

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Joint Reply Comments of OAN Services, Inc. and Integretel, Incorporated" will be served via U.S. Mail on this the 14th day of August, 1997, on each of the persons on the attached service list.

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